

WHEN RECORDED RETURN TO:

City of Ankeny
410 West First St.
Ankeny, Iowa 50023-1557

Preparer Information: Amy S. Beattie, 6701 Westown Parkway, Suite 100, West Des Moines, Iowa 50266 (515) 274-1450

**Tax Increment Development Agreement
CASEY'S RETAIL COMPANY**

Whereas, the CITY OF ANKENY, IOWA (hereinafter "City"), has been presented with a proposal for an Urban Renewal Project to be undertaken by CASEY'S RETAIL COMPANY, an Iowa corporation (hereinafter "Company"); and

Whereas, the Urban Renewal Project to be undertaken by the Company is on property locally known as 1 SE Convenience Blvd., Ankeny, Iowa and legally described on the attached **Exhibit "A"** (hereinafter "Project Area"). The Project Area is located within the 1989 Ankeny Economic Development Area Urban Renewal Project established by Resolution #23-89 passed on March 20, 1989 (hereinafter "Urban Renewal Area") and the Urban Renewal Plan established by Ordinance #1039 passed on May 15, 1989 (hereinafter "Ordinance"), and included in the Urban Renewal Plan approved by Resolution No. 62-89, adopted April 17, 1989, and the following amendments: Resolution No. 32-94, adopted February 7, 1994, the City approved and adopted Amendment No. 1 to the Plan; Resolution No. 2003-195, adopted May 19, 2003, the City approved and adopted Amendment No. 2 to the Plan; Resolution No. 2003-356, adopted November 17, 2003, the City approved and adopted Amendment No. 3 to the Plan; Resolution No. 2005-408, adopted September 6, 2005, the City approved and adopted Amendment No. 4 to the Plan; Resolution No. 2012-376, adopted September 17, 2012, the City approved and adopted Amendment No. 5 to the Plan; Resolution No. 2015-183, adopted April 6, 2015, the City approved and adopted Amendment No. 6 to the Plan; and Resolution No. 2017-132, adopted March 6, 2017, the City approved and adopted Amendment No. 7 to the Plan; and

Whereas, the City has adopted an Ordinance under which tax incremental revenues are divided with a portion going into the Urban Renewal Tax Increment Fund of the City, pursuant to *Iowa Code* §403.12 and §403.19; and

Whereas, the Company is proposing an Urban Renewal Project that will add approximately 60,000 square feet of office space (the "Project") to be located within the Project

Area, with the Company and its wholly owned subsidiary, Casey's Marketing Company anticipating adding 101 new jobs within the Project Area over three years; and

Whereas, the Project is eligible for benefits in accordance with the Local Business Investment Policy adopted by the City by Resolution No. 2016-435 which benefits consist of incentives providing certain property tax abatement and tax rebates (hereinafter "City Contribution"); and

Whereas, the City has determined that the Project is consistent with the economic development objectives of the City and that development of the Project Area is in the best interest of the City. The City further finds that the use of City funds is in accord with the provisions of the applicable laws under which the Project will be undertaken, including, but not limited to *Iowa Code* Chapters 15A and 403.

Now, Therefore, the City and Company, in consideration of the promises and mutual obligations set forth in this Development Agreement (hereinafter "Agreement"), agree as follows:

Article I

1.1 The Company shall construct the Project at its cost and in conformance with all applicable rules, regulations, ordinances and laws.

1.2 The Project shall consist of construction of an approximately Sixty Thousand (60,000) square foot, two story office addition, general improvements to the existing headquarters and distribution center buildings, and associated site improvements.

1.3 The Company shall commence the Project, defined as footings in the ground, within twelve (12) months of approval of this Agreement by the City.

1.4 The Company acknowledges the City's payment of incentives associated with the Project is wholly contingent on the completion of Project and the issuance of a Certificate of Occupancy by the City of Ankeny for the Project.

Article II

2.1 Each annual rebate payment on the tax increment financing eligible improvements is contingent upon proof that real estate taxes owed on the taxable value of the Project have been paid and satisfaction of all other contingencies set out in this Agreement. The City will rebate to the Company one-hundred percent (100%) of the taxes paid to the City, at the Tax Increment Financing rate on the tax revenue produced by the non-exempted portion of the incremental taxable property valuation added as a result of the Project (such revenue hereinafter referred to as the "Tax Increment") for a period of five (5) years and as restricted below. The first payment will be made in the fiscal tax year in which the taxes based on the value of the completed Project are first paid and conditions in this Agreement have been met.

2.2 Annual payment shall be paid to the Company on or about June 30 of the fiscal year such incremental taxes are paid, upon finding that the conditions precedent have been satisfied for said year.

2.3 The City's obligation to rebate taxes shall be restricted and limited by the City's ability to capture the Tax Increment funds from the qualifying Project. This will include but may not be limited by the following:

- a. The Tax Increment Financing rate established annually;
- b. The amount of Tax Increment collected from the Project on an annual basis after any abatement and/or exemption of property taxes and valuation by the Polk County Assessor;
- c. Amendments to the laws of the State of Iowa that limit or revise the amount of Tax Increment funds available to the City from the Project; and
- d. Limitations established by the City Council of the City of Ankeny in the adopted Financial Policy for the City of Ankeny; provided, however, that any such limitations shall be apportioned equally to all businesses similarly situated and shall not be applied solely to the Company or Project.

2.4 Notwithstanding the foregoing, the City pledges and agrees to make all reasonable efforts to obtain from the County Auditor the entire amount of Tax Increment revenues derived from the Project; however, the City makes no representation, warranty or guarantee as to the tax benefits that will accrue to the Company as a result of this financial assistance package.

2.5 For purposes of this Article, the incremental taxable property value will be determined at the sole discretion of the Polk County Assessor.

2.6 Each tax rebate is subject to annual appropriation by the City Council. The right of non-appropriation reserved to the City is intended by the parties, and shall be construed at all times, so as to ensure that the City's obligation to make future rebates shall not constitute a legal indebtedness of the City within the meaning of any applicable constitutional or statutory debt limitation prior to the adoption of a budget which appropriates funds for the payment of that installment or amount. In the event that any of the provisions of this Agreement are determined by a court of competent jurisdiction to create, or result in the creation of, such a legal indebtedness of the City, the enforcement of the said provision shall be suspended, and the Agreement shall at all times be construed and applied in such a manner as will preserve the foregoing intent of the parties, and no event of default by the City shall be deemed to have occurred as a result thereof. If any provision of this Agreement or the application thereof to any circumstance is so suspended, the suspension shall not affect other provisions of this Agreement that can be given effect without the suspended provision. To this end the provisions of this Agreement are severable.

ARTICLE III

3.1 By the expiration of three (3) years following the issuance of approval of this Agreement (the “Project Completion Period”), the Company, and/or its wholly owned subsidiary Casey’s Marketing Company, agrees to have created one-hundred and one (101) full-time positions within the Project Area, defined as one person employed 2,080 hours per year, at the wages listed in the table below, and thereafter shall maintain these positions for a period of two (2) additional years (hereinafter “Maintenance Period”) following the Project Completion Period. The five (5) year period time from the date of issuance of approval of this Agreement until the expiration of the Maintenance Period is hereinafter referred to as the “Project Period”.

Laborshed %	2017 Wage Rate	# of Positions	Created/Retained	Rebate Value
<100%	<\$24.27	20	C	\$1,500
100% - 120%	\$24.27 - \$29.12	0	C	\$2,500
>120%	>\$29.12	81	C	\$4,000

3.2 The Company shall submit payroll records within thirty (30) days of approval of this Agreement and upon receipt of request from the City annually thereafter for the period ending December 31 for each calendar year of the Project Period. Payroll records submitted in accordance with this agreement shall be in the same format as submitted to the State of Iowa.

3.3 If the Company does not meet the job obligations listed above in any year during the Maintenance Period, as its sole and exclusive remedy and as liquidated damages and not a penalty, the City shall retain a portion of the Company’s annual tax rebate for that year. Any amount retained will be calculated based on the number of jobs that were obligated and not created by the Project Completion Period using the rebate value listed above. The maximum amount of the rebate the City can retain shall not exceed 30% of the total rebate over five years.

For example, if the Company is short by 5 jobs paying less than 100% of the laborshed wage the amount to be withheld is \$1,500 per job multiplied by 5, for a total amount withheld of \$7,500. If, for example, the Company only creates 78 positions at >120% of the laborshed wage and 24 positions at <100% of the laborshed wage, the amount the City will withhold will be \$6,000, calculated by reducing the rebate \$12,000 (three jobs short at \$4,000 per job and a credit of \$6,000 (four jobs at \$1,500 per job) for four additional jobs created at <100% of the laborshed wage rate. The rebate value of any job created between 100% - 120% of the laborshed wage will be \$2,500.

Article IV

4.1 All notices given pursuant to this Agreement shall be in writing and shall be given by personal service, by United States certified mail or other established express delivery service (such as Federal Express) that guarantees overnight delivery, postage or delivery charge prepaid, addressed to the appropriate party at the address set forth below:

City: City of Ankeny
City Manager
410 W 1st Street
Ankeny, IA 50023

Company: CASEY'S RETAIL COMPANY
Attn: Richardt T. Schappert, Vice President
1 SE Convenience Blvd.
Ankeny, Iowa 50021

and with a copy to: CASEY'S GENERAL STORES, INC.
Attn: Douglas Beech, Legal Counsel
1 SE Convenience Blvd.
Ankeny, Iowa 50021

Notices shall be effective upon receipt or refusal.

4.2 The City's sole and exclusive remedy for Company's failure to meet the job obligations provided herein is in Section 3.3 herein.

4.3 The provisions of this Agreement are not intended to create, nor shall they in any way be interpreted or construed to create, a joint venture, partnership, or any other similar relationship between the parties.

4.4 This Agreement is not intended to create, nor shall it in any way be interpreted or construed to create, any third party beneficiary rights in any person not a party hereto.

4.5 The terms, covenants, conditions and agreements contained herein shall constitute covenants running with the land and shall be binding upon, and inure to the benefit of, the successors and assigns of the Company.

4.6 This Agreement and the Exhibits which are or may in the future become a part of this Agreement supersede any prior agreements between the parties concerning the Project, and no oral statements, representations or prior written matter relating to the subject matter hereof, but not contained in this Agreement, shall have any force or effect. This Agreement shall not be amended or added to in any way except by written instruments executed by all parties or their respective successors in interest.

4.7 Each person executing this Agreement represents and warrants that he or she has authority to sign this Agreement on behalf of the corporation, limited liability company, or other entity for which he or she is signing, and that his or her signature binds said entity to the terms and provisions of this Agreement.

4.8 This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute a single instrument. Signature and acknowledgment

pages may be detached from individual counterparts and attached to a single or multiple original(s) in order to form a single or multiple original(s) of this Agreement.

4.9 This Agreement shall be interpreted and construed in accordance with the laws of the State of Iowa.

4.10 Notwithstanding any other provisions of this Agreement, the Company may (1) pledge any and/or all of its assets as security for any financing of the Project; and (2) assign its rights under this Agreement to a third party. Upon receipt of notice of assignment and request from the Company, City agrees to make all payments directly to any assignee.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, this Agreement is hereby executed by each party on or as of the date set forth in the respective signature block for each party herein.

CITY OF ANKENY, IOWA

By: _____
Gary Lorenz, Mayor

I, Pamela DeMouth, City Clerk of the City of Ankeny, Iowa, do hereby certify that the within and foregoing Development Agreement was duly approved and accepted by the City Council of said City of Ankeny by Resolution No. _____, passed on the 15th day of January 2018 and this certificate is made pursuant to authority contained in said Resolution.

Signed this 15th day of January 2018.

City Clerk of the City of Ankeny, Iowa

STATE OF IOWA, COUNTY OF POLK, ss:

On the 15th day of January, 2018, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Gary Lorenz and Pamela DeMouth, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk of the City of Ankeny, Iowa, a municipal corporation; that the seal affixed to the above and foregoing instrument is the corporate seal of said municipal corporation, and the said Gary Lorenz and Pamela DeMouth acknowledged the execution of said instrument to be their voluntary act and deed and the voluntary act and deed of said municipal corporation, by it and by them voluntarily executed.

[Stamp or Seal]

Notary Public in and for the State of Iowa

CASEY'S RETAIL COMPANY

an Iowa corporation

By: _____
Richardt T. Schappert, Vice President

Signature Date: _____

STATE OF IOWA, COUNTY OF POLK, ss

On this ____ day of _____, 2018, before me, the undersigned, a Notary Public in and for the state of Iowa, personally appeared Richardt T. Schappert, to me personally known, who being by me duly sworn did say that he is the Vice President, of Casey's Retail Company, an Iowa corporation, that the instrument to which this is attached was signed on behalf of said corporation by authority of its Board of Directors; and that the said Richardt T. Schappert as such officers acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.

Notary Public in and for the
State of Iowa

Exhibit "A"

Lot Two (2), Metro North, an Official Plat, now included in and forming a part of the City of Ankeny, Polk County, Iowa;

AND

Lot One (1) in METRO NORTH, an Official Plat now included in and forming a part of the City of Ankeny, Polk County, Iowa, EXCEPT that part of said Lot One (1) in METRO NORTH defined and depicted as Parcel "A" in that certain Acquisition Plat dated May 2, 2000 and filed of record in Book 8485 at Page 161 in the records of the Polk County Recorder, more fully described as follows:

Beginning at the Southeast Corner of said Lot 1; thence North $89^{\circ}56'13''$ West along the south line of said Lot 1, a distance of 267.93 feet; thence North $45^{\circ}03'45''$ East, 381.78 feet to a point on the east line of said Lot 1; thence South $00^{\circ}29'35''$ West along said east line, 269.97 feet to the Point of Beginning and containing 0.83 acres (36,165 square feet) more or less

AND ALSO a part of the Southwest Quarter of Section 31, Township 80 North, Range 23 West of the 5th P.M., City of Ankeny, Polk County, Iowa, defined and depicted as Parcel "K" in that certain Plat of Survey dated May 2, 2000 and filed of record in Book 8485, Page 176 in the records of the Polk County Recorder, more fully described as follows:

Commencing at the Center of said Section 31, said point also being on the east line of METRO NORTH, being an Official Plat; thence South $00^{\circ}29'35''$ West along said east line, 1320.30 feet to the Southeast Corner of said METRO NORTH; thence North $89^{\circ}56'13''$ West along the south line of said METRO NORTH, 420.66 feet to the Point of Beginning; thence South $45^{\circ}03'45''$ West, 1224.22 feet to a point on the easterly right-of-way line of Interstate Highway 35; thence North $00^{\circ}51'49''$ West along said easterly right-of-way line, 865.78 feet to the Southwest Corner of said METRO NORTH; thence South $89^{\circ}56'13''$ East along the south line of said METRO NORTH, 879.65 feet to the Point of Beginning and containing 8.74 acres (380,740 square feet) more or less.